



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

Division of Medical Assistance and Health Services

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**STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES**

B.C.,

PETITIONER,

v.

DIVISION OF MEDICAL ASSISTANCE

AND HEALTH SERVICES AND

HORIZON NJ HEALTH

RESPONDENTS.

ADMINISTRATIVE ACTION

OAL DKT. NO. HMA 10822-24

ON REMAND

OAL DKT. NO. HMA 12636-23

As Assistant Commissioner for the Division of Medical Assistance and Health Services (DMAHS), I have reviewed the record in this case, including the Initial Decision and the Office of Administrative Law (OAL) case file. Neither party filed exceptions in this matter. Procedurally, the time period for the Agency Head to render a Final Agency

Decision is January 23, 2025, in accordance with an Order of Extension.

This case involves a dispute over the denial of Private Duty Nursing (PDN) services for a two-and-a-half-year-old child. Horizon NJ Health denied Petitioner's request for 8 hours of PDN care per day, arguing the child's medical needs were not severe enough to require skilled nursing and could be managed by a lay caregiver. (R-2). Specifically, Horizon cited the child's lack of dependence on medical ventilation, a tracheostomy, oxygen, or a seizure disorder as key reasons for the denial. (R-4).

Petitioner's mother, B.L., pursued appeals both internally and externally, but the denial was upheld. (R-3). The matter was then transferred to the Office of Administrative Law (OAL), where a May 1, 2024, Initial Decision was issued reversing Horizon's denial. The OAL found that the child's complex medical conditions, including pulmonary hypertension, feeding difficulties, and a history of heart surgery justified the need for PDN services, which provide continuous skilled nursing care. The OAL concluded the B.L. was not adequately trained to manage the child's medical conditions, which could lead to a serious medical emergency.

On July 26, 2024, the matter was remanded by the Assistant Commissioner of the Division of Medical Assistance and Health Services (DMAHS) for further proceedings because the Initial Decision did not sufficiently clarify the specifics of the child's medical necessity. The remand directed a more detailed review to determine whether the child's condition requires skilled nursing interventions, particularly for their respiratory needs, and specified the need for expert testimony from treating physicians or nurses to assess the child's ongoing care requirements.

To comply with the remand, the OAL scheduled a preemptory hearing for October

23, 2024. Both B.L. and the child's treating physician, Dr. Leger, were instructed to provide necessary documentation and attend the hearing. A reminder letter was sent to the parties and Dr. Leger, but only Horizon's attorney responded. On the day of the hearing, October 23, 2024, Horizon's attorney and two witnesses attended via Zoom. However, neither B.L. nor Dr. Leger appeared, and no communication was made to the OAL. After waiting a reasonable time, the Administrative Law Judge (ALJ) concluded Petitioner had abandoned the case by failing to appear.

The ALJ determined that pursuant to N.J.A.C. 1:1-14.4(a), the failure to appear without valid explanation or good cause means the Petitioner had abandoned the matter. Accordingly, the ALJ ordered that the matter be returned to DMAHS for appropriate disposition.

Here, the requirements of July 26, 2024, Order of Remand were not satisfied and accordingly the May 1, 2024, Initial Decision finding Horizon's denial of PDN is Reversed. The Assistant Commissioner of DMAHS specifically instructed the ALJ to clarify the medical necessity of the requested PDN services, including identifying which skilled nursing interventions were necessary for B.C. Furthermore, the Order of Remand called for a comprehensive assessment of B.C.'s medical needs, with specific testimony from B.C.'s treating physician or nurse. Petitioners failed to provide the required documentation or attend the scheduled hearing. No response was received from the petitioner's mother, B.L., or B.C.'s treating physician, Dr. Leger, despite the ALJ's repeated reminders. As a result, the petitioners' failure to appear and provide necessary information led to a lack of fulfillment of the remand's terms.

THEREFORE, it is on this 22nd day of JANUARY 2025

ORDERED:

That the October 25, 2024, Initial Decision finding Petitioners have abandoned their appeal is hereby ADOPTED.

That the May 1, 2024, Initial Decision finding that Horizon's refusal to cover PDN services for B.C. was improper is hereby REVERSED.

Gregory Woods

Gregory Woods, Assistant Commissioner
Division of Medical Assistance and Health Services